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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,476	12/05/2003	Toshiaki Wada	OOCL-148 (6HY-03S1570)	3084
26479	7590	08/24/2007	EXAMINER	
STRAUB & POKOTYLO 620 TINTON AVENUE BLDG. B, 2ND FLOOR TINTON FALLS, NJ 07724			LIEW, ALEX KOK SOON	
			ART UNIT	PAPER NUMBER
			2624	
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			08/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/729,476

Applicant(s)

TOSHIKI WADA

Examiner

Alex Liew

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 9, 11 and 13 is/are allowed.
- 6) ☒ Claim(s) 6-8, 10, 12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Claims

Claims 1 – 5, 9, 11 and 13 are allowable.

With regards to claim 1, Shiyama discloses an image search program for enabling a computer to perform

- a symbol providing step of determining whether predetermined similar to or dissimilar from first images and storing symbols for each of the predetermined images in data regions which are categories, in association with one first image, each symbol representing similarity or dissimilarity (see figure 2 – 12 to 15, are image registration process, see figure 4, each image is divided into plurality of segments, and each segment is assign a label value which identifies the feature in each of the segments);
- a reference-image retrieving step of retrieving some of the first images stored in a storage section, which are similar to a reference image, thereby retrieving primary selected images (see figure 10, at S23 is where a primary set of images are selected);
- an accumulating step of accumulating the values of the symbols stored in each category, for secondary selected images included in the primary selected images and being more similar to the reference image than the remaining primary selected images (see figure 10 – S24, the list of similarity images are narrowed down even further); and

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- a symbol-provided image retrieving step of retrieving some of the first images having symbols representing similarity and stored in a second number of categories included in the first number of categories (see figure 10 – S23 where primary set of images are selected and S24 where a second set of images are selected, wherein the second set selected from S24 are within the set in S23).

Shiyama does not disclose a category-selecting step.

The examiner cannot find any applicable prior art disclosing a category-selecting step of selecting some of the categories, each having accumulated a symbol value greater than the other categories, thereby selecting a first number of categories in combination with the rest of the limitations of claim 1.

With regards to claims 11 and 13, see the rationale for claim 1.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6 – 8, 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiyama (US pat no 6,400,853) in view of Lee (US pub no 2002/0168117).

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With regards to claim 6, Shiyama discloses an image search program for enabling a computer to perform

- a reference-image retrieving step of retrieving at least one second image selected from first images stored in a storage section, which is similar to a reference image (see figure 2 – 12 to 15, are image registration process, see figure 4, each image is divided into plurality of segments; each segment is assign a label value which identifies the feature in each of the segments);
- an image-displaying step of displaying an index image obtained (see column 1, lines 38 – 44); and
- a symbol-providing step of storing symbols in data regions which are categories provided for the reference image, in association with the third selected, each symbol representing similarity selected each symbol representing similarity or dissimilarity (see figure 10 – S23 where primary set of images are selected and S24 where a second set of images are selected, wherein the second set selected from S24 are within the set in S23).

Shiyama does not disclose an image-selecting step of causing a person who wants to retrieve images to select at least one-third image similar to the reference image. Lee discloses an image-selecting step of causing a person who wants to retrieve images to select images which match closest to the to the image provided (see paragraph 8).

Shiyama teaches a three-step process to find the best image from a plurality of images in a storage database (see figure 10 – S23 as first selected image, S24 as second selected images and S26 obtaining the final image). One skilled in the art would include

having the user select the best image because the computer algorithm might not be able to detect error in the input specified image leading to error in image retrieval, but a user is able to avoid those errors select the best image.

With regards to claim 7, Shiyama discloses an image search program according to claim 6, wherein the reference-image retrieving step has a step determining whether each of the first images is similar to or dissimilar from the reference image, in accordance with the attribute values of the first image and the attribute value of the reference image (see figure 13A, the values are being compared to in the specified image and a plurality of other image being compared to, those plurality of image are shown in figure 2 – 19).

With regards to claim 8, an extension to the arguments to claim 6, Lee discloses reference image is an image selected from the first images or an image input by a person who wants to retrieve images (see paragraph 8).

With regards to claim 10, 12 and 14, see the rationale and rejection for claim 6.

Conclusion.

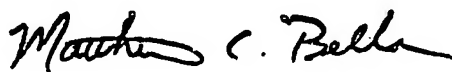
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Liew whose telephone number is (571)272-8623. The examiner can normally be reached on 9:30AM - 7:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alex Liew
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8/16/07



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